IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

WP(C).No. 28205 of 2007(G)

PETITIONER:

JAMEERA BADSHA,
W/O. P. MOHAMMAD BADSHA,THERUVATH VEETTIL HOUSE,
POST PUTHOOR,KOTTAKKAL,MALAPPURAM DISTRICT.

BY ADV. SRI.K.P.SUDHEER.

RESPONDENTS:

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1. **THE DISTRICT COLLECTOR,**
   MALAPPURAM, COLLECTORATE, MALAPPURAM.

2. **THE SUB INSPECTOR OF POLICE,**
   PARAPPANANGADI,MALAPPURAM DISTRICT.

BY GOVT. PLEADER SRI. I.V. PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/10/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC,J.

W.P (C) No. 28205 of 2007

Dated this the Ist October, 2007

J U D G M E N T

Exhibit-P5 is an order passed by the respondent under Rule 27 of the Kerala Protection of River Banks & Regulation of Removal of Sand Act, 2001. In this order, finding has been entered that the petitioner's vehicle KL-10-U1130 was used for unauthorised transportation of river sand and on that basis, the petitioner has been required to remit Rs.75,000/- being the value of the vehicle and fine of Rs.25,000/-. It is challenging the said order that this writ petition has been filed.

2. I heard the learned Counsel for the petitioner and the Government Pleader. A reading of Exhibit-P5 itself would show that reference has been made to a petition filed by the petitioner on 20th August, 2007. This petition has been produced in this writ petition as Exhibit-P4. Petitioner has raised a contention that the sand was brought from outside State and that there was valid pass for the same. It is submitted that from the Lorry in which it was brought the sand was transferred to the petitioner's vehicle for delivery at the site and it is at that stage the vehicle was seized by the police.

3. Thus, the contention is that there was no unauthorised transportation of the sand in question. However, Exhibit-P5 would show that none of the contentions raised by the petitioner have been considered by the 1st respondent. Therefore, Exhibit-P5 order is bad for non-application of mind and deserves to be set aside.

Accordingly, I set aside Exhibit-P5 and direct the 1st respondent to reconsider the proceedings initiated against the petitioner, as expeditiously as possible, at any rate within 10 days on receipt of a copy of this judgment. Petitioner shall produce a copy of this judgment before the 1st respondent along with the pass and other documents in support of her contention that the sand in question was brought through authorised channels. Petitioner will be free to move the District Collector for interim custody of the vehicle, in which case, he shall consider and pass appropriate orders thereon in accordance with law.

(ANTONY DOMINIC, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007